

AMENDED IN ASSEMBLY MARCH 26, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 533

Introduced by Assembly Member Cedillo

February 21, 2001

An act to add Section 1950.8 to the Civil Code, relating to landlord-tenant.

LEGISLATIVE COUNSEL'S DIGEST

AB 533, as amended, Cedillo. Landlord-tenant: payments.

Existing law regulates the relationship between landlord and tenant, as specified.

This bill would provide, *with respect to commercial leases and nonresidential tenancies*, that it is unlawful for any person (1) to require, demand, or cause to make payable any payment of money, *including, but not limited to, "key money,"* however denominated, as a condition of initiating, continuing, or renewing a lease or rental agreement of real property for any use other than residential use, unless the payment is rent, and, if a written lease agreement exists, the amount of the payment is ascertainable from the terms of the written lease or rental agreement, ~~or the payment is a security deposit, as specified, and if a written lease agreement exists, the amount of the payment is ascertainable from the terms of the written lease agreement, or~~ (2) to require, demand, or cause to make payable any other fee as a condition of initiating, continuing, or renewing a lease or rental of real property for nonresidential use unless the amount of the payment or condition is ascertainable from the terms of the written lease or rental agreement. The bill would also provide that no landlord or property owner shall

~~require a tenant to pay key money as a condition of initiating, continuing, or renewing a lease or rental agreement for any use of real property other than residential use, unless the amount of the key money is ascertainable from the terms of the written lease or rental agreement. Any payment in violation of this provision would be subject to a civil penalty of 3 times the amount of actual damages proximately suffered by the person seeking to obtain the lease of the real property, and the person so damaged would be entitled to an award of costs, including reasonable attorney fees, reasonably incurred in connection with obtaining the civil penalty. The bill would also contain clarifying provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1950.8 is added to the Civil Code, to
2 read:
3 ~~1950.8.—(a) It shall be unlawful for any person (1) to require,~~
4 ~~demand, or cause to make payable any payment of money,~~
5 ~~however denominated, as a condition of initiating, continuing, or~~
6 ~~renewing a lease or rental agreement for any use other than~~
7 ~~residential use of real property, unless the payment is rent, and, if~~
8 ~~a written lease agreement exists, the amount of payment is~~
9 ~~ascertainable from the terms of the written lease agreement, or the~~
10 ~~payment is a security deposit which is governed by Section 1950.7,~~
11 ~~and if a written lease agreement exists, the amount of the payment~~
12 ~~is ascertainable from the terms of the written lease agreement, or~~
13 ~~(2) to require, demand, or cause to make payable any other fee as~~
14 ~~a condition of initiating, continuing, or renewing a lease or rental~~
15 ~~agreement of real property for any use other than residential use~~
16 ~~and, if a written lease agreement exists, the amount of the payment~~
17 ~~or condition is ascertainable from the terms of the written lease~~
18 ~~agreement.~~
19 ~~(b) No landlord or property owner shall require a tenant to pay~~
20 ~~a fee, commonly known as “key money,” as a condition of~~
21 ~~initiating, continuing, or renewing a lease or rental of real property~~
22 ~~for any use other than residential use unless the fee is ascertainable~~
23 ~~from the terms of the written lease or rental agreement.~~

1 ~~(c) Any person who requires, demands, or causes to make~~
2 ~~payable any payment in violation of subdivision (a) or (b), shall by~~
3 ~~subject to civil penalty of three times the amount of actual damages~~
4 ~~proximately suffered by the person seeking to obtain the lease of~~
5 ~~real property, and the person so damaged shall be entitled to an~~
6 ~~award of costs, including reasonable attorney fees, reasonably~~
7 ~~incurred in connection with obtaining the civil penalty.~~

8 ~~(d) Nothing in this section shall prohibit the advance payment~~
9 ~~of rent, so long as the amount and character of the payment are~~
10 ~~clearly ascertainable from the terms of a written lease agreement.~~

11 ~~(e) Nothing in this section shall prohibit any person from~~
12 ~~charging a reasonable amount for the purpose of conducting~~
13 ~~reasonable business activity in connection with initiating,~~
14 ~~continuing, or renewing a lease or rental agreement of real~~
15 ~~property, including, but not limited to, verifying credit worthiness~~
16 ~~or qualifications of any person seeking to initiate, continue, or~~
17 ~~renew a lease or rental agreement of real property for any use other~~
18 ~~than residential use, cleaning and reasonable attorney fees,~~
19 ~~reasonably incurred in connection with the hiring of the real~~
20 ~~property.~~

21 *1950.8. (a) This section applies only to commercial leases*
22 *and nonresidential tenancies of real property.*

23 *(b) It shall be unlawful for any person to require, demand, or*
24 *cause to make payable any payment of money, including, but not*
25 *limited to, "key money," however denominated, as a condition of*
26 *initiating, continuing, or renewing a lease or rental agreement,*
27 *unless the amount of payment is ascertainable from the terms of the*
28 *written lease or rental agreement.*

29 *(c) Any person who requires, demands, or causes to make*
30 *payable any payment in violation of subdivision (a), shall by*
31 *subject to civil penalty of three times the amount of actual damages*
32 *proximately suffered by the person seeking to obtain the lease or*
33 *rental of real property, and the person so damaged shall be entitled*
34 *to an award of costs, including reasonable attorney's fees,*
35 *reasonable incurred in connection with obtaining the civil penalty.*

36 *(d) Nothing in this section shall prohibit the advance payment*
37 *of rent, if the amount and character of the payment are clearly*
38 *ascertainable from the terms of a written lease or rental*
39 *agreement.*

- 1 (e) Nothing in this section shall prohibit any person from
2 charging a reasonable amount for the purpose of conducting
3 reasonable business activity in connection with initiating,
4 continuing, or renewing a lease or rental agreement, including, but
5 not limited to, verifying credit worthiness or qualifications of any
6 person seeking to initiate, continue, or renew a lease or rental
7 agreement for any use other than residential use, cleaning and
8 reasonable attorney's fees, reasonably incurred in connection with
9 the hiring of the real property.
- 10 (f) Nothing in this section shall prohibit a person from
11 increasing a tenant's rent in order to recover building operating
12 costs incurred on behalf of the tenant, if the right to the rent, the
13 method of calculating the increase, and the period of time covered
14 by the increase is ascertainable from the terms of the lease or rental
15 agreement.

